

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MICHAEL ETCHEGOINBERRY, <i>et al.</i> ,	)	
	)	No. 11-564 L
Plaintiffs,	)	
	)	Senior Judge Marian Blank Horn
v.	)	
	)	<i>Electronically filed on June 26, 2020</i>
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

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JOINT STATUS REPORT AND REQUEST FOR STATUS CONFERENCE

Plaintiffs and Defendant United States of America (the “Parties”) respectfully submit this Joint Status Report pursuant to this Court’s March 30, 2020, order. ECF No. 134. For the reasons stated in this Joint Status Report, Plaintiffs request that the Court lift the stay of these proceedings. The United States, on the other hand, submits that a stay remains prudent. The Parties ask that the Court order each side to file a short brief on its proposed next steps in this case, and that the Court then schedule a status conference to establish how to proceed.

On March 30, 2020, this Court issued a further stay of this case until June 26, 2020. ECF No. 134. That stay tracked approximately the first half of the duration of a stay requested (and ultimately granted) in *Westlands Water Dist. v. United States*, Case No. 2013-5069 (Fed. Cir.) (“*Westlands*”). See March 30, 2020, Order, *Westlands* (ECF No. 78) (staying appeal until September 15, 2020).

As previously reported, the United States and Westlands Water District (“Westlands”) reached a settlement regarding the management of drainage within Westlands’ service area (“Settlement Agreement”). If implemented, this Settlement Agreement would provide a means for resolving all pending claims in the instant case and in *Westlands*, and would affect the

provision of drainage service under orders issued by the U.S. District Court for the Eastern District of California in *Firebaugh Canal Water Dist., et al. v. United States, et al.*, No. 88-cv-634-LJO (E.D. Cal.).

Because Congress has not passed the enabling legislation called for in the Settlement Agreement, the Parties and Westlands have been exploring ways by which they can attain the benefits of the Settlement Agreement, including the settlement of the above-captioned case.

Plaintiffs' position is that the Parties have been engaged in settlement efforts since 2013, with no success yet, and so after seven years the time has come to lift the stay of these proceedings so that litigation may resume. Settlement talks can and should continue, but litigation should no longer wait on the outcome.

For its part, the United States submits that a stay awaiting Congress' evaluation of the Settlement Agreement is the most prudent path forward. In the briefing the Parties propose in this joint status report, the United States will offer its proposed path forward for litigation should the Court agree with Plaintiffs to lift the stay.

The Parties jointly propose that the Court order each side to file a short brief setting forth its proposed next steps in this lawsuit, and that the Court then schedule a status conference to establish how to proceed.

Dated: June 26, 2020

Respectfully submitted,

BEVERIDGE & DIAMOND, P.C.

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